

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

METROPOLITAN TAXICAB BOARD OF  
TRADE; MIDTOWN OPERATING CORP.;  
SWEET IRENE TRANSPORTATION CO. INC.,  
OSSMAN ALI; and KEVIN HEALY,

Plaintiffs,

v.

CITY OF NEW YORK; MICHAEL R.  
BLOOMBERG, in his official capacity as Mayor  
of the City of New York; THE NEW YORK  
CITY TAXICAB & LIMOUSINE  
COMMISSION ("TLC"); MATTHEW W.  
DAUS, in his official capacity as Commissioner,  
Chair, and Chief Executive Officer of the TLC;  
PETER SCHENKMAN, in his official capacity as  
Assistant Commissioner of the TLC for Safety &  
Emissions; and ANDREW SALKIN, in his  
official capacity as First Deputy Commissioner of  
the TLC,

Defendants.

08 Civ. 7837 (PAC)

**NOTICE OF MOTION**

PLEASE TAKE NOTICE that, upon the Declaration of Elizabeth Saylor, dated September 17, 2008, including all of the exhibits appended thereto, and upon the accompanying declarations, Plaintiffs' Rule 56.1 Statement, and the Memorandum of Law, Plaintiffs will move this Court, before the Honorable Paul A. Crotty, United States District Judge, at the United States Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York, on a date to be determined by the Court, for an Order:

1. Pursuant to Fed. R. Civ. P. 65, granting plaintiffs a preliminary injunction pursuant to Fed. R. Civ. P. 65, on their claims that TLC Rule § 3.03(c)(10)-(11) is preempted by the Energy Policy and Conservation Act and/or the Clean Air Act;
2. Pursuant to Fed. R. Civ. P. 65, converting this motion for a preliminary injunction

into a motion for permanent relief and thereby granting plaintiffs a permanent injunction pursuant to Fed. R. Civ. P. 65, on their claims that TLC Rule § 3.03(c)(10)-(11) is preempted by the Energy Policy and Conservation Act and/or the Clean Air Act;

3. Pursuant to Fed. R. Civ. P. 56 and 28 U.S.C. § 2201 (declaratory judgment act), converting this motion for a preliminary injunction into a motion for permanent relief and granting plaintiffs a declaratory judgment stating that TLC Rule § 3.03(c)(10)-(11) is preempted by the Energy Policy and Conservation Act;

4. Such other relief available under federal, state, and local law that may be considered appropriate under the circumstances.

Dated: September 17, 2008  
New York, New York

Respectfully submitted,

EMERY CELLI BRINCKERHOFF &  
ABADY, LLP

By: 

Richard D. Emery (RE 5181)  
Elizabeth Saylor (ESS 8091)  
75 Rockefeller Plaza, 20th Floor  
New York, NY 10019  
Tel: (212) 763-5000  
Fax: (212) 763-5001